

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CALVIN FLETCHER, )  
Plaintiff, )  
vs. )  
JOSEPH TOMLINSON, et al., )  
Defendants. )  
Case No. 4:14-CV-999-RLW

## **MEMORANDUM AND ORDER**

This matter is before the Court on Plaintiff's Motion to Amend the Case Management Order (ECF No. 112). The Court finds that a short extension of the discovery deadlines is warranted. The Court, however, is not convinced that extensions of the other deadlines in this case are required, particularly since Plaintiff has not yet filed a motion for leave to amend his Complaint. Further, Plaintiff has not identified why he needs to file a supplemental expert opinion. The Court will revisit these other issues once it is determined whether Plaintiff will be permitted to file an amended complaint. Likewise, the Court will address the need for additional depositions after Plaintiff has identified a specific need for each deposition.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Amend the Case Management Order (ECF No. 112) is **GRANTED**, in part and the following schedule shall apply in this case, and will be modified only upon a showing of exceptional circumstances:

## I. SCHEDULING PLAN

1. Disclosure shall proceed in the following manner:

(a) Defendants shall make expert witnesses available for depositions, and have depositions completed, no later than **December 16, 2015**.

(b) The parties shall disclose all rebuttal expert witnesses and shall provide the reports required by Rule 26(a)(2), Fed.R.Civ.P., no later than **December 10, 2015**, and shall make expert witnesses available for depositions, and have depositions completed, no later than **January 11, 2016**.

(c) The parties shall complete all discovery in this case no later than **January 11, 2016**.

(d) Motions to compel shall be pursued in a diligent and timely manner, but in no event filed more than eleven (11) days.

2. Any motions to dismiss, motions for summary judgment, motions for judgment on the pleadings, or, if applicable, any motion to exclude testimony pursuant to Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993) or Kuhmo Tire Co. Ltd. v. Carmichael, 526 U.S. 137 (1999), must be filed no later than **January 15, 2016**. Any response shall be filed no later than **February 15, 2016**. Any reply shall be filed no later than **February 29, 2016**. **Courtesy copies (including exhibits) of all motions for summary judgment and motions under Daubert shall be submitted to chambers either by mail or hand-delivery.**

## **II. ORDER RELATING TO TRIAL**

This action is set for a JURY trial on **June 20, 2016**, at 9:00 a.m. This is a 2 week docket, and the parties are expected to be ready and available for trial on the first day of the docket and thereafter on twenty-four hours notice.

**In this case, unless otherwise ordered by the Court, the attorneys shall, not less than twenty (20) days prior to the date set for trial:**

1. **Stipulation:** Meet and jointly prepare and file with the Clerk a JOINT Stipulation of all uncontested facts, which may be read into evidence subject to any objections of any party set forth in said stipulation (including a brief summary of the case which may be used on Voir Dire).

2. **Witnesses:**

(a) Deliver to opposing counsel, and to the Clerk, a list of all proposed witnesses, identifying those witnesses who will be called to testify and those who may be called.

(b) Except for good cause shown, no party will be permitted to call any witnesses not listed in compliance with this Order.

3. **Exhibits:**

(a) Mark for identification all exhibits to be offered in evidence at the trial (Plaintiffs to use Arabic numerals and defendants to use letters, e.g., Pltf-1, Deft.-A, or Pltf Jones-1, Deft Smith-A, if there is more than one plaintiff or defendant), and deliver to opposing counsel and to the Clerk a list of such exhibits, identifying those that will be introduced into evidence and those that may be introduced. The list shall clearly indicate for each business record whether the proponent seeks to authenticate the business record by affidavit or declaration pursuant to Fed.R.Evid. 902(11) or 902(12).

(b) Submit said exhibits or true copies thereof, and copies of all affidavits or declarations pursuant to Fed.R.Evid. 902(11) or 902(12), to opposing counsel for examination. Prior to trial, the parties shall stipulate which exhibits may be introduced without objection or preliminary identification, and shall file written objections to all other exhibits.

(c) Except for good cause shown, no party will be permitted to offer any exhibits not identified or not submitted by said party for examination by opposing counsel in compliance with this Order. Any objections not made in writing at least ten (10) days prior to trial may be considered waived.

**4. Depositions, Interrogatory Answers, and Request for Admissions:**

(a) Deliver to opposing counsel and to the Clerk a list of all interrogatory answers or parts thereof and depositions or parts thereof (identified by page and line numbers), and answers to requests for admissions proposed to be offered in evidence. At least ten (10) days before trial, opposing counsel shall state in writing any objections to such testimony and shall identify any additional portions of such depositions not listed by the offering party which opposing counsel proposes to offer.

(b) Except for good cause shown, no party will be permitted to offer any interrogatory answer, or deposition or part thereof, or answer to a request for admissions not listed in compliance with this Order. Any objections not made as above required may be considered waived.

**5. Instructions:** Submit to the Court and to opposing counsel their written request for instructions and forms of verdicts reserving the right to submit requests for additional or modified instructions at least ten (10) days before trial in light of opposing party's requests for instructions. (Each request must be supported by at least one pertinent citation.). **The parties shall email a copy of the instructions to the clerk at:**

**MOEDml\_Team\_AGF\_RLW\_NCC@moed.usousrts.gov**

**6. Trial Brief:** Submit to the Court and to opposing counsel a trial brief stating the legal and factual issues and authorities relied on and discussing any anticipated substantive or procedural problems.

**7. Motions in Limine:** Parties shall file all motions in limine to exclude evidence, **and submit a courtesy copy directly to the Court's chambers**, at least ten (10) days before the trial conference.

Failure to comply with any part of this Order may result in the imposition of sanctions.

Dated this 24th day of November, 2015.



RONNIE L. WHITE  
UNITED STATES DISTRICT JUDGE